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April 26, 2021

Via ECF
Hon. Jesse M. Furman
United States District Court Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v Arguendas (Jacobb Padin)*

20 Cr. 135 (JMF)

Dear Judge Furman:

We represent Jacobb Padin in the above matter. We write to advise the Court of the of the steps Mr. Padin has undertaken to get vaccinated, and to respectfully request that the Court postpone his surrender date, currently scheduled for April 30, 2021 until July 1, 2021, for the “exceptional” reasons supporting this request that our set forth below.

As set forth in our previous requests for temporary bail, Mr. Padin has severe, chronic asthma and other medical conditions that required recent surgery and ongoing therapy. Immediately following Mr. Padin’s bail hearing, Mr. Padin contacted his physician to schedule an appointment to receive the vaccine. His doctor advised him that he would have to come in for an office visit prior to receiving the vaccine. Although Mr. Padin had a previously scheduled appointment with his doctor for early June, and the doctor’s office tried to persuade him to keep that appointment, at Mr. Padin’s request they were able to find an earlier appointment for May 11, 2021 (which they advised was the earliest appointment they had). Mr. Padin took that appointment and anticipates receiving the first vaccine on that day. Because of the four-week time requirement between the first and second vaccine, and to account for a slight additional time period following the second vaccine to rule out any significant side effects from the

vaccine, we are respectfully requesting that Mr. Padin's bail be continued until July 1, 2021. In support of this request, we provide the following exceptional reasons for him to remain out until that time.

While the rate of COVID-19 infections across the United States are not as great as a few months ago, our country continues to face unprecedented challenges from the coronavirus pandemic. There were 429,133 new COVID-19 cases in the United States last week,¹ and in our prisons across the country, as of April 20, 2021 at least 395,882 people had tested positive for COVID-19.² Also, to date there have been 2571 total prisoner deaths reported due to COVID-19.³ Moreover, as of April 20, 2021, the MCC reported 87 detainees with positive COVID-19 tests and 63 positive tests of staff, while the MDC reported 395 detainees with positive COVID-19 tests and 116 positive tests of staff.⁴ In February 2021, an inmate at the MDC died from the virus, and this was after having received his first dosage of the vaccine.⁵ And even though the MDC and MCC have begun to administer the vaccine, our understanding is that the percentage rate of those getting vaccinated remains extremely low, with only 11 percent of inmates at the MCC and only 15 percent at the MDC having had one vaccine.⁶

For these reasons, we respectfully submit that "exceptional reasons" exist warranting Mr. Padin's temporary release until he is fully vaccinated. We therefore respectfully request that Your Honor postpone his surrender date until July 1, 2021.

Mr. Padin's pretrial service officer has noted that Mr. Padin has been 100 % compliant while on pretrial release. We also consulted with Andrew Chan, on behalf of the Government. We advised the Government of the circumstances set forth above regarding Mr. Padin and his appointment with his doctor to obtain the vaccine, after which we were asked to include the following statement:

As the Government indicated at the time of the defendant's guilty plea, the Government does not believe that the defendant has provided "exceptional reasons" why his detention pending sentencing is not appropriate. This is especially true in light of the fact that the defendant's plea took place on March 17, 2021, and the defendant has still not been vaccinated and does not intend to receive the first dose of the vaccine until May 11, 2021. For the reasons

¹ https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days (Accessed April 23, 2021)

² <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons> (Accessed April 23, 2021)

³ https://www.bop.gov/resources/news/pdfs/20210208_press_release_bro.pdf (Accessed April 23, 2021)

⁴ (See Apr. 20, 2021 Letter to the Honorable Margo K. Brodie from MCC Interim Warden R. Heisner and MDC Warden H. Tellez, found at https://www.nyed.uscourts.gov/pub/bop/20210421_BOP_Report.pdf.)

⁵ Murphy Mary, *MDC inmate died from COVID-19 before developing immunity from vaccine*, February 17, 2021, <https://pix11.com/news/coronavirus/mdc-inmate-died-from-covid-19-before-developing-immunity-from-vaccine>.

⁶ See Apr. 20, 2021 Letter to the Honorable Margo K. Brodie from MCC Interim Warden R. Heisner and MDC Warden H. Tellez, https://www.nyed.uscourts.gov/pub/bop/20210421_BOP_Report.pdf

previously stated, the Government continues to oppose further extension of Padin's temporary release.

Your Honor's time and consideration of this request is greatly appreciated.

Respectfully submitted,


s/

Lorraine Gauli-Rufo

Attorney for *Jacobb Padin*

cc: Andrew Chan, AUSA
Danielle Sassoon, AUSA
Bernisa Mejia, PTSO (*via email*)

The Defendant's surrender date is hereby extended to June 14, 2021 - at which point he should be fully vaccinated. (In the unlikely event that the Defendant has an adverse reaction to the vaccine and that date is problematic, counsel can seek a further extension at that time.) The Clerk of Court is directed to terminate Doc. #382. SO ORDERED.



April 27, 2021